

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1529 of 2018  
and  
Crl.M.P.No.17972 of 2018

Babu

... Petitioner

Vs.

State: rep. by its  
The Inspector of Police,  
W-6, All Women Police Station,  
Ayanavaram,  
Chennai-600 023.  
(Crime No.6 of 2018)

... Respondent

The Criminal Revision Case filed under Section 397 read with 401 of Code of Criminal Procedure to call for the records and set aside the docket order dated 20.12.2018 of the learned Mahila Judge, Chennai in Crl.M.P.No. 22124 of 2018 in S.c.No.407 of 2018 and direct the learned Mahila Judge, Chennai to take the Crl.M.P.No.22124 of 2018 on the file and dispose it after giving the petitioner a fair hearing as per law.

For Petitioners : Mr.Shaikh Mehrunisa

For Respondent : Mr.N.Ramesh  
Special Public Prosecutor

O R D E R

The above criminal revision case has been filed to call for the records and set aside the docket order dated 20.12.2018 On the file of the learned Mahila Judge, Chennai in Crl.M.P.No. 22124 of 2018 in S.C.No.407 of 2018 and direct the learned Mahila Judge, Chennai to take the Crl.M.P.No.22124 of 2018 on file and dispose of in accordance with law.

2. A complaint was lodged by one Shivangi Khubchand, against the petitioners/accused before respondent Police. On the basis of the complaint, a case was registered by the respondent police in Crime No.6 of 2018 against the revision petitioner and

others. The revision petitioner herein has been arrayed as A10. It appears that the respondent police conducted a thorough investigation into the complaint and finally found that there was substance in the complaint and therefore a report was filed by the respondent police against the revision petitioner and others for the offences under Sections 307, 506(ii) and 6,10,12 of POCSO Act 2012 altered under Sections 341, 342, 328, 376(AB), 307, 506(ii) and 6, 10, 12 of POCSO Act 2012 altered 342, 354, 354(B), 366, 366(A), 307, 376(2)(iln), 376(AB), 376(DB), 506(i), 506(ii) IPC and 5(g)(k)9l(m) read with 6, 9(h)(k)(l)(m) read with 10, 11(i) read with 12 of POCSO Act 2012. The petitioner was remanded to judicial custody on 17.07.2018 and on 05.09.2018 he was detained under the Goondas Act.

3. When the case was pending before the learned Mahila Judge, Chennai in S.C.No.407 of 2018, the Revision Petitioner herein filed a petition under Section 227 of Cr.P.C. to discharge him from the above offences on the ground that the petitioner was wrongly implicated in this case. However, the same was dismissed as not maintainable. As against the docket order passed by the learned Judge, the revision petitioner has filed this revision before this Court.

4. The learned counsel for the petitioner would submit that the petitioner is a sick person for the past several years. Initially in the FIR, name of the petitioner was not found. Subsequently, the respondent police have falsely implicated the petitioner and there is no material to frame charges against him. The learned Sessions Judge without giving any opportunity, mechanically dismissed the petition filed by the petitioner. There is no reason given in the order passed by the trial Court, which warrants interference. Therefore, the petitioner has to be discharged from the above offences.

5. The learned Government Advocate (Crl. Side) has vehemently opposed the claim of the revision petitioner. The prosecution has alleged that the petitioner and other 17 accused have sexually abused the victim girl(minor) for a period of 7 months from January 2018 to July 2018 and also they threatened the victim girl at knife point, not to tell it any one about the sexual abuse. There is a prima facie incriminating material against the revision petitioner to proceed with the case. Charges were framed and trial has also been commenced. P.W.1 and P.W.2 have been examined. P.W.3 is being examined.

6. This Court has considered the rival submissions made by the learned Counsel appearing for the petitioner as well as the learned Government Advocate (Criminal Side) for the State and perused the materials available on record.

7. The learned counsel for the petitioner vehemently contended that name of the petitioner was not found in the FIR and only subsequently it was added. Therefore, the learned counsel would say that the petitioner was falsely implicated in this case and he has to be discharged from all the charges levelled against him.

8. Section 227 of Cr.P.C., reads as follows- ''upon consideration of the record of the case and the documents submitted therewith, and after hearing the submission of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused.''

9. In this case though the name of the petitioner was not found in the FIR, subsequently, investigation revealed the involvement of the petitioner under the offence. The victim girl identified the petitioner in the test identification parade. The respondent police have conducted the investigation and found the involvement of the petitioner. A strong prima facie case is made out against the petitioner. In such circumstances, this Court does not find any ground to grant the relief prayed for by the petitioner.

10. On reading of the entire records and pleadings, this Court does not find any infirmity or perversity in the order passed by the Court below.

11. In the result, the revision stands dismissed and the order passed by the learned Mahila Judge, Chennai in CrI.M.P.No. 22124 of 2018 in S.C.No.407 of 2018, dated 20.12.2018 is hereby confirmed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rli

To

1. The Mahila Court, Chennai

2. The The Inspector of Police,  
W-6, All Women Police Station,  
Ayanavaram, Chennai-600 023.

3. The Public Prosecutor,  
High Court, Madras-600 104.

+1 cc to Mr.N.Ramesh, Special Public Prosecutor SR.No.10472

Crl.R.C.No.1529 of 2018  
and

Crl.M.P.No.17972 of 2018

BS (CO)  
CSL/12.04.2019



WEB COPY